

Before the
Federal Communications Commission
Washington, D.C. 20554
FCC 04-233

I, Marvin Glass, am President of MG Media, Inc. which is the licensee of WGNQ. WGNQ is a small-market, mom and pop owned and operated, 1 kW AM radio station that serves the public as a niche-market broadcaster.

The Commission's goals of promoting localism, public service and safety, niche programming and minority ownership are important and I applaud the Commission for seeking to increase broadcasters' involvement in their community and seeking to increase diversity and minority ownership. Unfortunately, the proposed solutions raise significant problems and in some cases are self-defeating. Some of the proposed solutions seriously infringe on freedom of speech and others will cause small-market operators to either go out of business entirely or drastically curtail their broadcast day along with their service to their communities. The following areas cause me significant concerns:

Main Studio Location:

The Commission proposes to tighten the Main Studio Requirements back to pre-1998 parameters. While I laud the Commission for seeking ways to increase Broadcasters' responsiveness to their communities of license I must say that this proposal, at least for small markets, is mutually exclusive

with its intended goal. The reason is very simple. Small market and niche market broadcasters often operate with extremely narrow financial margins. Forcing us to maintain our main studios in the city of license will force many small operators to go out of business.

I purchased WGNQ, a 1 kw AM station, two and one half years ago. I have yet to have even one month without negative revenue. If I were not able to maintain my main studio in connection with another business with which I am associated, I would already be bankrupt. Certainly I, like many others, anticipate that the picture will improve. Until it does, many of us are doing the best we can to provide a viable community service often under very difficult financial conditions.

Cable Carriage:

To really help AM stations achieve some degree of viability, why not require cable systems to carry AM station audio in the same ways they are required to carry local TV stations?

EAS System Changes and Remote Operation:

Also raised are questions regarding the effectiveness of the EAS system and the ability of local emergency management personnel to access the broadcast stream during unattended station hours. The question is

asked regarding TV and states that the same question regarding radio will be resolved in another FNPRM.

While my present experience is limited to operating a radio station, I can categorically state that the problem with the EAS system and emergency local access to broadcasting is not a problem caused by automation and unattended operation. Without question, failures in the EAS system are caused by human error, human error either in the original encoding of the alerts or in setting up the monitoring chain. These human errors are not caused, nor will they be rectified, by having a sleepy human at the controls in the wee hours of the night. As is already well documented, the entire EAS system needs rebuilding from the ground up and the problems have nothing to do with unattended operation. I submit that these issues must be addressed and should be resolved in the pending EAS FNPRM, rather than being spread over several NPRM's and FNPRM's as I have already noted.

However, since the issue is raised I will address it. Access to broadcast facilities by *local* emergency personnel has never before been required. This may indeed be important to public safety and should be addressed in the EAS FNPRM. Access by approved emergency personnel during unattended operation can easily be allowed by installing appropriate equipment and issuing pin codes that allow them to access that equipment. This is not rocket science, the technology already exists.

Requiring attended operation for all broadcast facilities defeats the goal of improved emergency services response because *many* financially marginal operations will simply have to go off the air during the late evening and early morning hours. These financially marginal broadcasters will tend to be small-market operators who often broadcast in areas where other broadcasters or alert mechanisms may not exist. The net result will be a tremendous loss of public safety and service.

Regarding network-affiliation relationships and payola, etc.:

The Commission already has adequate laws on the books. These laws simply need to be enforced and perhaps a mechanism put in place for easier reporting of problems. For example, the Right To Reject Rule is an absolute rule. Any time a network provides a program that I reject as against the public good I have the absolute right, and am required by the Commission, to reject that program. If a network pressures me, I do need a fairly easy method in place for me to report that and obtain help. I should always have the right to-advance-review programming.

One of the reasons I recently dropped a very popular conservative talk program from WGNQ is that the host ran an objectionable interview without advance notice.¹ When he took control of the programming out of my hands, I dropped the show. The decision was easy for me *but my entire operation did*

¹ The host ran the interview the first time with advance notice and many blacked out that interview, so he ran it the following week *intentionally* with no advance notice so that we would not black it out.

not revolve around that network affiliation. For this reason I do think the public will be well served by some attention to network-affiliation relationships.

Public Files On the Internet, Reporting Mechanisms, License Renewals, Enhanced Reporting Order, Mandated Community Advisory Committees:

I support placing the entire public file on the Internet and believe this will go much farther toward making station programming reports accessible to the public than will moving the main studio to the city of license. I tentatively, with reservations, support using an enhanced, standard reporting form so that broadcasters will have a consistent reporting mechanism rather than a nebulous moving target. I am very concerned about the ultimate cost of increased paperwork: more paperwork means less real radio broadcasting and for marginal operations the increased personnel cost may cause termination of the broadcast facility operation.

Perhaps of greater importance, I see the potential for a serious freedom of speech issue when we move on to the questions regarding license renewal. When the Commission specifically requires certain kinds of programming or programming percentages, we move perilously close to a "Big Brother" mentality that significantly infringes on an American station operator's right to free speech.

For example, because of the royalties required for music reproduction my station plays very little music. If, in order for me to get my license renewed, you require me to play local artists, you are forcing me to play a programming format that is foreign to my station and increases royalty fees to boot. This is America! Our soldiers are wounded and at times even die so that basic American freedoms always remain. If, in order for my license to be removed, you require me to give equal time to opposing sides in religious issues; you seriously impinge upon my freedom of speech. Please don't take my American freedoms away!

Granted, requiring me to establish a Community Advisory Board may have positive consequences, both for increasing responsiveness to the local community and for the station operation. As the station discerns more clearly the needs and wants of the community perhaps its listener base will increase and consequently its financial condition will improve. The problem is once again that of the potential for infringing upon our constitutional right of freedom of speech. Who determines the composition of this committee? To what extent are their recommendations required to be followed? What if as an atheist, I end up with a committee who requires me to air religious programming? Or vice versa? To what extent can the Commission regulate my programming and still be within the spirit and letter of Constitutional Law? Are we coming to the place where I will be required to provide equal time to positions I believe harm my listeners and our great country? Again I

repeat. This is America. I am proud to be an American. I want to stay proud to be an American!

Additionally, requiring equal time for contradictory or inflammatory issues will result in stations providing a very bland view of newsworthy perspectives. This will be necessary to keep from presenting viewpoints that should never cross the airwaves in the first place. The end result of this kind of regulation will once again tend toward forcing the precisely opposite result from the intended goals found in this group of proposals.

I am also concerned that doing all the paperwork that will be necessary, should the proposals in this NPRM be implemented, coupled with establishing and maintaining a “localism” committee will require an inordinate amount of time. At best this will require station personnel to reduce more overt broadcast activities and community interaction in order to devote time to this pile of paperwork.

I am curious to know what is the Commission’s estimate of time required to maintain this paperwork and meet the other proposed requirements? As I’ve already written, at worst case, smaller market broadcasters with financially marginal operations will very well have to close down or sell out. This reduces, rather than increases, localism, diversity and public service to the community of license.

Summary:

In summary I ask the Commission to look very carefully at the unintended results of proposals upon which I have touched. The goal of increased responsiveness to local community needs and increased public safety is laudable. Unfortunately as I've illustrated in these comments, the unintended result will reduce the freedom of speech we Americans hold so dear and will be financially disastrous to the small-market operator.

The law requires that the Commission describe significant alternatives to minimize the impact on small business. In addition to the freedom-of-speech concerns, I have outlined various areas of this proposal that will negatively impact small entities. To this point I see no alternatives listed. This proposal will also negatively impact minority and small-business types getting started in broadcasting. Only a very foolish minority or small-business person will be willing to invest in this business *if* this body of rules is adopted without some relief for small-business entities.

The FCC rules and policies presently allow me to operate in compliance with the main studio rule and with unattended operation. If changed rules require me to maintain a main studio in the city of license I will have to put the station on the market. I will have no other choice.

The station may not be attractive to any other buyer and closing it down may be the only option. Much of my lifetime savings are invested in this facility. If I lose this facility because of changed rules who is going to reimburse me the loss of my life savings? I realize I am painting a very bleak

picture here, but I believe you will find I am not alone in this very real concern.

Requiring us to maintain main studios in our individual cities of license and requiring attended operation will force many smaller, local broadcasters to either sell out to large chain operators or, failing in that, to go dark.

I humbly petition the Commission to refuse to take these steps which will cause irreparable harm to so many of the small-market, mom-and-pop-type owners. We are the ones who presently provide real localism and public safety communication in and to our small rural communities. When we are gone, no one will be there or able to replace us.

Sincerely,

Marvin Glass
President, MG Media, Inc.